

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

CRM-M-10798-2013
CRM-M-11968-2019 (O&M)

Neutral Citation No. 2023:PHHC:117219
Neutral Citation No. 2023:PHHC:117222

**Reserved on: August 23, 2023
Date of Decision: September 04, 2023**

1. **CRM-M-10798-2013**
Murti and others ...Petitioners

Versus

State of Punjab and another ...Respondents

2. **CRM-M-11968-2019 (O&M)**
Mukhtiar Singh and another ...Petitioners

Versus

State of Punjab and another ...Respondents

CORAM: HON'BLE MR. JUSTICE DEEPAK GUPTA

Present: - Mr. P.S. Ahluwalia, Advocate for the petitioners.

Mr. Parneet Singh Pandher, AAG, Punjab.

Mr. Dharambir, Advocate for
Mr. R.K. Handa, Advocate for the complainant.

DEEPAK GUPTA, J.

Prayer in the two petitions titled above, both filed under Section 482 Cr.P.C., is to quash FIR No.299 dated 09.12.2012 under Sections 420, 467, 468, 471 and 120-B of IPC, registered at Police Station Rajpura City, District Patiala, along with subsequent proceedings emanating therefrom.

2. FIR in question was lodged on the complaint of Darshan Lal (*respondent N: 2 in both the petitions*) S/o Ram Parshad made on 06.12.2012, as per which his uncle's son Karam Chand in connivance

with his three sisters, namely, Murti, Kanta Devi and Amarjit Kaur @ Amaro (*petitioners in CRM-M-10798-2013*) had prepared a forged Will of his father Lachhman Dass in the year 1995, though said Lachhman Dass had already expired in 1982. It was alleged that signature of Numberdar Surjit Singh on the Will, were also forged; and that Mukhtiar Singh & Radhe Shyam (*petitioners in CRM-M-11968-2019*) had witnessed the Will despite knowing that Lachhman Dass had already expired in 1982.

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3. It is contended on behalf of petitioners, namely, Murti, Kanta Devi and Amarjit Kaur @ Amaro that case pertains to the forgery of the Will of Shri Lachhman Dass, who is their father; and uncle of the complainant. Petitioners are neither beneficiaries to the Will nor attesting witnesses nor scribe to the Will. To the contrary, they are the victims, inasmuch as in case the property was inherited by natural succession, petitioners would have inherited the same, but by way of Will, Karam Chand was to receive the entire property. It is further pointed out that FIR has been lodged after a delay of about 17 years in December, 2012, though the occurrence had taken place in January, 1995. Not only this, complainant concealed the fact that earlier a criminal complaint had been instituted on identical allegations with respect to the forgery of the Will left behind by Lachhman Dass, wherein there was no allegations against the present petitioners and that only Karam Chand, Radhe Shyam, Mukhtiar Singh and Surjit Singh were arraigned as accused, as is evident

from Annexure P-3. That complaint filed by the cousin brother of complainant-respondent No.2, remained pending for almost 9 years and ultimately, the same was dismissed as withdrawn on 14.03.2011.

4. These petitioners submitted further that Lachhman Dass had four children, i.e., Karam Chand - son and petitioners - three daughters and none of these legal heirs had ever any dispute or challenged the validity of the Will in any manner. Brother of the petitioners, namely, Karam Chand had instituted a suit for declaration to be owner of the property left behind by Lachhman Dass on the basis of the Will dated 10.01.1995 but that matter was amicably resolved before the Lok Adalat, as per order dated 28.07.2012 (Annexure P-6) on the basis of the compromise deed Annexure P-7.

5. It is alleged further that the FIR has been lodged with an ulterior motive, as family of the complainant is embroiled in the civil litigation with the family of the petitioners. Elaborating, it is contended that their great grandfather Mangal had three sons, namely, Jaya Ram, Dattu and Bhola. After the death of Mangal, entire estate was inherited by said three sons, namely, Jaya Ram, Dattu and Bhola. Jai Ram was married to Punnu Devi and was blessed with one son, namely, Lachhman Dass, i.e., father of the petitioners. After the death of Jai Ram, Punnu Devi married Dattu but no child was born out of that wedlock. After the death of Dattu, mutation of inheritance was sanctioned in the name of Punnu Devi and subsequently, property of Jai Ram and Dattu devolved upon Lachhman Dass, the father of the present petitioners. Complainant

party are the grandchildren of Bhola, the third son of Mangal and they are embroiled in the civil litigation with present petitioners and their family members, as they claimed that Punnu Devi had not married Dattu and so, could not inherit his share. Said civil dispute was decided in favour of the family of the present petitioners. Having lost in the Civil Courts, complainant got lodged the instant case to compel the petitioners and their family members to accede to their illegal and illegitimate demands. Desh Pal, who had earlier instituted the private complaint, which was dismissed as withdrawn; and Darshan Singh, the complainant of the present FIR are both grandsons of Bhola and they want to keep the petitioners and their family members entangled in the false case.

6. With all the above submissions, prayer has been made to quash the FIR in question along with all subsequent proceedings emanating therefrom.

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7. On behalf of petitioners, namely, Mukhtiar Singh and Radhe Shyam, apart from the same contentions as raised by Murti etc., it is further contended that the civil litigation has been decided in favour of the family members of Lachhman Dass and even RSA No.4161 of 2012 has been dismissed by this High Court on 24.08.2017. It is further contended that the petitioners are not the beneficiaries to the Will and they are being harassed unnecessarily.

8. In the status report filed in CRM-M-10798-2013 on behalf of the respondent-State, it is submitted that Karam Chand and petitioner

Amarjit Kaur @ Amaro expired during pendency of the proceedings; whereas investigation qua Mukhtiar Singh and Radhe Shyam, stood concluded. Due to the interim order passed by this Court qua presentation of challan in respect of petitioners vide order dated 03.04.2013, the petitioners have been kept in column No.2 of the challan.

9. No separate status report has been filed in CRM-M-11968-2019.

10. The complainant of the FIR Darshan Singh, who is a party in both the petitions, in his separate reply, opposed the petitions by pointing out towards nature of allegations regarding forgery of Will of a dead person and prayed for dismissal of the petitions.

11. The submissions made by Ld. counsel for both the parties have been duly considered and the record has been perused.

12. The main contention raised on behalf of respondent No.2 by learned counsel is that Will dated 10.01.1995 is apparently a forged document, since Lachhman Dass, the testator of the Will, had already expired in 1982. Though, it is conceded that petitioners, namely, Murti, Kanta Devi, Amarjit Kaur @ Amaro are not signatories to the Will nor attesting witnesses nor scribe, but contention is that Karam Chand had prepared the Will in connivance with the said petitioners. On the other hand, learned counsel for the petitioners has reiterated the contentions raised in the petitions.

13. Annexure P-2 is the copy of the Will in question, which is purported to be executed on 10.01.1995 by Lachhman Dass, bequeathing

his property in favour of his son Karam Chand. The said Will is purported to be attested by witnesses, namely Mukhtiar Singh and Radhe Shyam.

14. It is not disputed by learned counsel for the petitioners, Murti etc. that Lachhman Dass, the testator of the alleged Will had expired in 1982 and therefore, the Will in question is apparently a forged document. However, it is Karam Chand, the son of Lachhman Dass, who being the beneficiary of the Will, who might have forged the Will. Undisputedly, said Karam Chand has already expired. A perusal of the Will reveals that none of the petitioners, namely, Murti, Kanta Devi and Amarjit Kaur @ Amaro (*petitioners of CRM-M-10798-2013*) are either the signatories to the Will or scribe to the Will or the attesting witnesses. To the contrary, they appear to be the victims, inasmuch as by way of this forged Will, they have been deprived of their share in the property of their father Lachhman Dass, which they would have inherited by way of natural succession in the absence of any Will. As such, it cannot be stated at all that Will has been forged in connivance with the petitioners.

15. Still further, on the same allegations as contained in the FIR, Desh Pal S/o Ram Nath, the cousin brother of respondent No.2-complainant Darshan Singh had earlier filed a complaint No.17 of 2002 before learned Sub Divisional Judicial Magistrate, Rajpura, so as to prosecute Karam Chand, Radhe Shyam, Mukhtiar Singh and Surjit Singh. Copy of the said complaint is Annexure P-3 (in CRM-M-10798-2013). However, said complaint was dismissed as withdrawn vide order dated 14.03.2011, copy of which is Annexure P-4 (in CRM-M-10798-2013).

16. Still further, the Will was regarding the property of Lachhman Dass. Admittedly, said Lachhman Dass had four children, i.e., one son - Karam Chand and three daughters, namely, Murti, Kanta Devi, Amarjit Kaur @ Amaro. Complainant has nothing to do with the property of Lachhman Dass or his inheritance. Whatever dispute was there regarding the inheritance of Lachhman Dass, it was amongst his four children. Karam Chand had filed civil suit on the basis of Will dated 10.01.1995, bearing Suit No.554 of 2012, titled as "*Karam Chand v. Murti etc.*". However, that suit was dismissed as withdrawn in the Lok Adalat, vide order dated 28.07.2012 (Annexure P-6) on the basis of compromise Ex.CX (Annexure P-7).

17. Matter does not stop here. Relationship is not in dispute to the effect that Mangal had three sons, namely, Jai Ram, Dattu and Bhola. Lachhman Dass is the son of Jai Ram S/o Mangal; whereas Darshan Singh, complainant of the present FIR, is son of Ram Parshad S/o Bhola and Desh Pal, who had earlier filed the criminal complaint (Annexure P-3) is the son of Ram Nath S/o Bhola. Descendants of Bhola i.e., Ram Nath and Ram Parshad etc. had filed a civil suit against the descendants of Lachhman Dass, i.e., Karam Chand, Murti etc., claiming share in the estate of Dattu, who as per the case of the petitioners, had married Smt. Punnu, earlier married to Jai Ram after the death of said Jaya Ram. Though, the said suit was initially decreed on 20.02.2009 by learned Addl. Civil Judge (Sr. Divn.), Rajpura, but civil appeal No.121-T of 2009 filed by Karam Chand etc. i.e., descendants of Lachhman Dass was

allowed and the suit of Ram Nath etc. i.e., descendants of Bhola was dismissed on 31.03.2012 by learned Addl. District Judge (Fast Track Court), Patiala, copy of which is Annexure P-8. The descendants of Bhola had filed RSA No.4161 of 2012 against judgment dated 31.03.2012 (Annexure P-7) (in CRM-M-11968-2019), but that RSA has been dismissed by this Court on 24.08.2017, copy of which is Annexure P-8 (in CRM-M-11968-2019). So much so, Special Leave Petition (Civil) No.5807 of 2019 was also filed by Bachna Ram etc., i.e., descendants of Bhola against judgment dated 24.08.2017 of this Court in RSA No.4161 of 2012, but that SLP was dismissed by the Hon'ble Supreme Court on 11.03.2019. Copy of that order is Annexure P-15 (in CRM-M-11968-2019).

18. It is very important to notice that present FIR has been lodged after more than 17 years from the execution of the Will dated 10.01.1995. Said FIR has been lodged after losing the civil litigation from the Court of Addl. District Judge, Patiala, and also after withdrawal of the earlier complaint, which had been filed by Desh Pal, the cousin of complainant Darshan Singh.

19. Thus, from the aforesaid documentary evidence, it is found that complainant of the FIR Darshan Singh along with his other family members i.e., descendants of Bhola lost civil litigation up to the Hon'ble Supreme Court against the family members of petitioners Murti etc., i.e., descendants of Lachhman Dass. The civil litigation *inter se* petitioners Murti, Kanta Devi and Amarjit Kaur @ Amaro and their brother Karam

Chand has already been amicably settled. Karam Chand, the brother of said petitioners and who was the sole beneficiary of the forged Will, has already expired. Petitioners, namely, Murti, Kanta Devi and Amarjit Kaur @ Amaro are neither beneficiaries to the Will nor signatories nor attesting witnesses, nor scribe to the Will. Even the attesting witnesses, namely, Mukhtiar Singh and Radhe Shyam are not the beneficiaries of the Will, as it was pertaining to the property of Lachhman Dass. FIR has been lodged after more than 17 years from the date of execution of the forged Will and that too after dismissal and withdrawal of the earlier criminal complaint on the similar allegations and also after the family of the complainant had lost the civil litigation before the First Appellate Court vide Annexure P-8 (in CRM-M-10798-2013).

20. The question is that whether in the aforesaid facts and circumstances, FIR should be quashed or not.

21. Learned counsel for respondent No.2-complainant has relied upon *“Sau. Kamal Shivaji Pokarnekar v. State of Maharashtra & Ors.”* 2019(2) RCR (Criminal) 38, *“Parkash Chand v. State of Himachal Pradesh”* (Criminal Appeal No.2393 of 2010, decided on 12.02.2019) and *“Priti Saraf & Anr. v. State of NCT of Delhi & Anr.”* [Criminal Appeal No.296 of 2021 {arising out of SLP (crl.) NO.6364 of 2019}, decided on 10.03.2021] to contend that criminal complaint cannot be quashed on the ground that allegations appear to be of civil nature.

22. In *“State of Haryana and Ors vs Ch. Bhajan Lal”* 1992 AIR 604, Hon’ble Supreme Court laid down certain guidelines as to when the

inherent powers under Section 482 Cr.P.C should be used to quash the FIR. It was held as under: -

“8.1. In the exercise of the extra-ordinary power under Article 226 or the inherent powers under Section 482 of the Code of Criminal Procedure, the following categories of cases are given by way of illustration wherein such power could be exercised either to prevent abuse of the process of any Court or otherwise to secure the ends of justice, though it may not be possible to lay down any precise, clearly defined and sufficiently channelised and inflexible guide- i7 myriad kinds of cases wherein such power should be exercised:

(a) where the allegations made in the First Information Report or the complaint, even if they are taken at their face value and accepted in their entirety do not prima facie constitute any offence or make out a case against the accused;

(b) where the allegations in the First Information Report and other materials, if any, accompanying the F.I.R. do not disclose a cognizable offence, justifying an investigation by police officers under Section 156(1) of the Code except under an order of a Magistrate within the purview of Section 155(2) of the Code;

(c) where the uncontroverted allegations made in the FIR or 'complaint and the evidence collected in support of the same do not disclose the commission of any offence and make out a case against the accused;

(d) where the allegations in the FIR do not constitute a cognizable offence but constitute only a non-cognizable offence, no investigation is permitted by a police officer without an order of a Magistrate as contemplated under Section 155(2) of the Code;

(e) where the allegations made in the FIR or complaint are so absurd and inherently improbable on the basis of which no prudent person can ever reach a just conclusion that there is sufficient ground for proceeding against the accused;

(f) where there is an express legal bar engrafted in any of the provisions of the Code or the concerned Act (under which a criminal proceeding is instituted) to the institution and continuance of the proceedings and/or

where there is a specific provision in the Code or the concerned Act, providing efficacious redress for the grievance of the aggrieved party; (g) where a criminal proceeding is manifestly attended with mala fide and/or where the proceeding is maliciously instituted with an ulterior motive for wreaking vengeance on the accused and with a view to spite him due to private and personal grudge.”

23. In the opinion of this court, the present case falls within the parameters No. (g) referred to above.

24. Apart from above, in *Salib @ Shalu @ Salim Vs. State of Uttar Pradesh & Ors.* [Criminal Appeal No. 2344 of 2023 arising out of S.L.P. (Criminal) No. 3152 of 2023] decided on 8th August, 2023, Hon’ble Supreme Court, after taking note of parameters laid down in *Bhajan Lal’s case (supra)* for quashing of the FIR or criminal proceedings further held as under:

26. At this stage, we would like to observe something important. Whenever an accused comes before the Court invoking either the inherent powers under Section 482 of the Code of Criminal Procedure (CrPC) or extraordinary jurisdiction under Article 226 of the Constitution to get the FIR or the criminal proceedings quashed essentially on the ground that such proceedings are manifestly frivolous or vexatious or instituted with the ulterior motive for wreaking vengeance, then in such circumstances the Court owes a duty to look into the FIR with care and a little more closely.

We say so because once the complainant decides to proceed against the accused with an ulterior motive for wreaking personal vengeance, etc., then he would ensure that the FIR/complaint is very well drafted with all the necessary pleadings. The complainant would ensure that the averments made in the FIR/complaint are such that they disclose the necessary ingredients to constitute the alleged offence.

Therefore, it will not be just enough for the Court to look into the averments made in the FIR/complaint alone for the purpose of

ascertaining whether the necessary ingredients to constitute the alleged offence are disclosed or not. In frivolous or vexatious proceedings, the Court owes a duty to look into many other attending circumstances emerging from the record of the case over and above the averments and, if need be, with due care and circumspection try to read in between the lines.

The Court while exercising its jurisdiction under Section 482 of the CrPC or Article 226 of the Constitution need not restrict itself only to the stage of a case but is empowered to take into account the overall circumstances leading to the initiation/registration of the case as well as the materials collected in the course of investigation.

Take for instance the case on hand. Multiple FIRs have been registered over a period of time. It is in the background of such circumstances the registration of multiple FIRs assumes importance, thereby attracting the issue of wreaking vengeance out of private or personal grudge as alleged.”

25. Having noticed the facts and circumstances of the case and the legal position as explained above and the parameters in which FIR can be quashed expounded by the Hon’ble Supreme Court from time to time, this court finds that the FIR in this case deserved to be quashed. As such, FIR No.299 dated 09.12.2012, under Sections 420, 467, 468, 471 and 120-B of IPC, registered at Police Station Rajpura City, District Patiala, along with all subsequent proceedings emanating therefrom, is hereby quashed.

Both the petitions are allowed.

Photocopy of this order be placed on the connected case file.

September 04, 2023
sarita

(DEEPAK GUPTA)
JUDGE

Whether reasoned/speaking: Yes/No
Whether reportable: Yes/No